

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Case No. 11-20548

George A. Dodson, III,

Honorable Sean F. Cox

Defendants.

**ORDER NOTIFYING DEFENDANT OF RECHARACTERIZATION AND DIRECTING
DEFENDANT TO FILE MEMORANDUM**

Defendant George A. Dodson, III pleaded guilty to several firearm offenses. This Court sentenced Defendant on October 26, 2012. The Sixth Circuit affirmed Defendant's sentence on May 29, 2013.

Acting *pro se*, Defendant sent a letter to this Court on September 3, 2013, asking this Court to allow him to withdraw his guilty plea and allow him to exercise his right to trial by jury.

Although Defendant's letter does not cite the legal authority under which he asks this Court to vacate his sentence, the relief requested is consistent with a motion to vacate sentence under 28 U.S.C. § 2255 and is therefore the equivalent of a petition under § 2255. Before characterizing Defendant's letter as a § 2255 motion, however, Defendant must be given the opportunity to withdraw the filing. *See In re Shelton*, 295 F.3d 620, 622 (6th Cir. 2002). This is because "[a]n unintended byproduct of [liberally construing *pro se* filings as § 2255 petitions] . . . is that it may effectively deprive an uninformed *pro se* litigant of the future opportunity to file a motion to vacate his sentence under § 2255." *Id.* at 621. After a prisoner files one motion under § 2255, the

Antiterrorism and Effective Death Penalty Act generally prevents a prisoner from filing a second or successive § 2255 motion. Thus, the prisoner must be aware that the Court's construction of his petition may limit his ability to pursue future avenues of collateral relief and must be given the opportunity to either agree with the Court's construction or withdraw his motion.

Accordingly, **Defendant George A. Dodson III is hereby NOTIFIED that the Court intends to construe his September 3, 2013 letter as a motion for relief under 28 U.S.C. § 2255.**

Defendant is DIRECTED to file a one-page memorandum on or before **January 9, 2014**, indicating whether he agrees with the Court's intended characterization of his September 3, 2013 letter or whether he withdraws his September 3, 2013 request. In the event that Defendant does not file a memorandum on or before January 9, 2014, his September 3, 2013 filing will be deemed a motion under § 2255.

IT IS SO ORDERED.

Dated: December 9, 2013

S/ Sean F. Cox
Sean F. Cox
U. S. District Court Judge

I hereby certify that on December 9, 2013, the foregoing document was served upon counsel of record by electronic means and upon George Dodson by First Class Mail at the address below:

George A. Dodson, III
16344-039
P. O. Box 1000
Loretto, PA 15940-1000

Dated: December 9, 2013

S/ J. McCoy
Case Manager